Supreme Court, U.S.
FILED

011383 DEC 12 2001

OFFICE OF THE CLERK

No. _____

In The

Supreme Court of the United States

Kirk Yi,

Petitioner,

v.

Young Ki Lee et al.

Respondents.

On Petition for Writ Of Certiorari
To the Court of Appeals of State of Maryland

PETITION FOR WRIT OF CERTIORARI

Kirk Yi
Pro Se
1426 Squaw
Hill LN
Silver Spring
MD 20906
301 603 1538

35pp

QUESTIONS PRESENTED

1. **Did Trial Court had right to credit $30,000.00 toward judgment when evidence presented by Appellee lacked proper authentication?**

2. **'evidence' presented at bench trial, when does it carry its full power as 'evidence' to be used in purpose of reaching verdict?**

3. **when 'evidence' is used for purpose of reaching verdict after it was presented in court, does 'evidence' must meet due process in which it becomes qualifies as 'proper evidence' and when does this 'due process' occur at bench trial?**

4. **when trial court used 'evidence' presented in court, in purpose of reaching verdict at bench trial, does trial court have duty in which proper due process was observed to insure authentication has been met for use of 'evidence to reach verdict'?**

5. **Did the Trial Court err when it granted $30,000.00 to be credited toward judgment when there was no compelling evidence?**

6. **when trial court did granted credit of $30,000.00 toward judgment, did it violate appellant's right of due process?**

B: list of parties

Petitioner

Petitioner is Chong Su Yi, a/k/a Kirk Yi

Respondents

Respondents are as follows:

Bong K. Lee <oldest son>
Hyang Soon Lee <wife of elder son> a/k/a Laura Lee
Young K. Lee <younger son>
Jacklyn Lee <wife of younger son>
Byung Chun Lee <father of family deceased>
Cho Sun Lee <mother of family>

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FROM COURT OF APPEALS:
Dated Sept 14th 2001
Denial of Writ of Certiorari

Opinions of Court of Appeals in State of Maryland is not included and it does not exist in Writ of Certiorari for Supreme Court of United States, since subject matter couldn't be decided by Court of Appeals in State of Maryland, due to Court of Appeals in State of Maryland's refusal to grant petition of Writ of Certiorari for Court of Appeals for State of Maryland therefore, subject matter was never heard in Court of Appeals in State of Maryland, however opinion on petition for Writ of Certiorari for Court of Appeals in State of Maryland does exist and included. <Appendix page 1a>

FROM COURT OF SPECIAL APPEALS:
Dated June 1st 2000
Denial of motion to Reconsider

Opinions of Court of Special Appeals in State of Maryland is not included and does not exist in this Writ of Certiorari, due to Court of Special Appeals in State of Maryland's refusals to grant time extension to file brief, thus Court of Special Appeals in Maryland wasn't able to consider above subject matter. However,

opinion on denial of time extension does exists and included in Write of Certiorari for Supreme Court of United States. <Appendix 3a >

FROM COURT OF SPECIAL APPEALS:
Dated: June 21st 2001

FROM CIRCUIT COURT:
Dated May 2nd 2000
Court's ruling.

Court's decision on hearing dated May 2nd of 2000, of Circuit court in Montgomery County in State of Maryland, is in Appendix page<9a>

However, there is no mandate or opinion on this decision from the said Court.

E: concise statement of basis for jurisdiction in this court

Constitution of United States guarantees every citizen's voice to be heard in court and right to appeal from it. However, Petitioner's voice wasn't heard in either Courts, Court of Appeals and Court of Special Appeals, in State of Maryland, due to lack of provision in Court systems to satisfy equal representation.

Constitution allows only two types of people to practice law in court. Court approved lawyers, and self-representing individuals, pro se.

Court-approved, Board Certified lawyers have studied extensively through higher learning institutions, to garner education and knowledge. And have passed bar exam to prove their abilities and worthiness to practice law in Courts.

This Petitioner, Kirk Yi, pro se, has not attended higher learning institutions to obtain knowledge and education of Law to have equal level of abilities, knowledge, and education to practice law in courts. Thus disparity exists between Court approved lawyer and pro se.

Constitution of United States guarantees equal Representation. Since it is matter of Constitution, it is by right, not by discretion of courts. Therefore, Courts have obligation to provide avenues for Equal Representation to occur, which it solely lacks.

Had there been avenues in which Petitioner could have obtained Equal Representation, in either courts of appeals or special appeal, this matter may not have been appeal to Supreme Court of United States.

Since petitioners voice wasn't heard at neither Court of Appeals of State of Maryland, nor Court of Special Appeals in State of Maryland, from appeal of this case from Circuit Court of Montgomery County in State of Maryland, Petitioners right to be heard in Court must be protected by Supreme Court of United States.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

F: constitutional provisions, treaties, statues

According to Federal Rule of Evidence, Article IX, Rule 901, states requirement of authentication of evidence that general requirements are as follows:

> **Rule 901. Requirement of Authentication or Identification.**
> **a) General provision.**
> **The requirement of authentication or identification as a condition precedent to admissibility is satisfied by evidence sufficient to support a finding that the matter in question is what its proponent claims.**

And in Federal Rule of Evidence, Article X, Rule 1003 admissibility of Duplicates section (1), states:

> **Rule 1003:**
> **A duplicate is admissible to the same extent as an original unless (1) a genuine question is raised as to the authenticity of the original or,**

G: statement of the case

Seung Mo Kang was original judgment creditor of Respondent, Bong K. Lee et al., and it was assigned to Petitioner, Kirk Yi, on date of Feb. 2nd of 1996. As of effective said date, Petitioner Kirk Yi became sole Judgment creditor.

At alleged date of some time in April of 1996, transaction in alleged amount of $30,000.00, U.S. dollar traveler checks occurred from Respondent, Bong K. Lee, to Petitioner Kirk Yi without cause.

Hearing at Circuit Court of Montgomery County in State of Maryland, May 2nd 2000, Respondent, Bong K. Lee et al., alleged said amount, $30,000.00, was for specifically 1) to satisfy judgment, 2) toward judgment. And judge credited $30,000.00 toward judgment.

However, during hearing, Respondent, Bong K. Lee et al., Defendant below, offered copy of traveler checks as evidence, though they weren't authenticated.

And Respondent didn't offer any evidence, orally or written, agreement that said $30,000.00 was 1) to satisfy judgment, 2) toward judgment.

And yet ruling from presiding judge was for Defendant, Bong K. Lee et at, where said $30,000.00

This case was appealed to Special Court of Appeal in State of Maryland in timely manner, however, extension to file a brief was denied, thus this case was never heard at Special Court of Appeals.

Subsequently, this case was appealed to Court of Appeals in State of Maryland in timely manner, but writ of certiorari was denied, thus, this case wasn't heard at Court of Appeals in State of Maryland.

There is existence of Satisfaction of Judgment filed at Circuit court. However, it is defective as it stands. Since it came to be from direct consequences of ruling from trial court. And came to be under duress.

Since ruling of trial court is defective, Satisfaction of Judgment is also defective. Its defect has risen due to defective ruling from Trial Court and that is what is being questioned here and now. Thus, when this defect is corrected then Satisfaction of Judgment would and must be nullified, and as any results gained from its existence.

Now it comes before Supreme Court of United States, seeking relief.

ARGUMENT FOR GRANTING CERTIORARI

H) Direct and concise argument

Money in question, alleged amount of $30,000.00 was paid to Petitioner, Kirk Yi, by Respondent, Bong K. Lee, on alleged date of April of 1996. Petitioner never demanded $30,000.00, or demanded judgment to be satisfied, in full or in partial. Payment was made out of Respondent's own volition for his own accord.

At the time of transaction Council, Jerry DUNITZ ESQ represented Respondent. When Respondent advised his intention to his own council, his council unequivocally advised Respondent if money in question is for judgment in question, then record must be made< letter to Respondent is in Appendix page<insert page number>. However, Respondent did not, and was within his right. However, money was not to satisfy judgment partially or fully, since no record was ever made, stated, or demand by Respondent, of said transaction was for specifically satisfy judgment.

Respondent specifically stated money came from his younger sister who was married and was residing overseas at the time to a financially very well off family. And since her money was presented to petitioner, without respondent's articulation as to why, and accrued judgment amount was over $80,000.00, petitioner assumed said money was for Mr. And Mrs. Yi, who are parent of petitioner, for

all the damage respondent has incurred in the past. Thus, alleged money was past on to Mrs. Yi from petitioner.

However, hearing at Circuit Court for Montgomery County, Maryland, on May 2nd of 2000, Respondent et al., claimed money paid was for partially and fully to satisfy judgment in question, circuit court case number 144747.

In addition, Respondent presented copy of traveler's checks as evidence and made a Claim. Claim was simple, and unauthenticated copies of traveler's checks presented as evidence. In addition, copies were allegedly identical to the one's given to Petitioner on alleged date. In addition, no further supporting evidence was provided.

Such as signed documents specifying transaction was for partial or full satisfaction of judgment. In addition, this type of document could have been easily obtained had Respondent's true motive had been that money was for specifically for judgment, per his own council's advice.

Although, Mrs. Yi did testify under sworn oath, she kept the said traveler's checks in safe deposit box, it was not uncommon for Mrs. Yi to keep other money's other than traveler's checks in safe deposit box. And she never testified copies of traveler's checks presented at court are the one's petitioner gave her.

Therefore, authentication of evidence was in question.

In addition, during sworn testimony at hearing, none of the Respondent, Bong K. LEE et al., was able to produce any other evidence, other than copies of unauthenticated traveler's checks.

ARGUMENT 1

According to Federal Rule of Evidence, Article IX, Rule 901, states requirement of authentication of evidence that general requirements are as follows:

> **Rule 901. Requirement of Authentication or Identification.**
> **a) General provision.**
> **The requirement of authentication or identification as a condition precedent to admissibility is satisfied by evidence sufficient to support a finding that the matter in question is what its proponent claims.**

And in Federal Rule of Evidence, Article X, Rule 1003 admissibility of Duplicates section (1), states:

> **Rule 1003:**
> **A duplicate is admissible to the same extent as an original unless (1) a genuine question is raised as to the authenticity of the original or,**

Evidence presented needed to be authenticated. Since original is in question. Since testimony of Mrs. Yi, did not validate traveler's check in question is indeed are the one's petitioner gave her.

All she testified to is petitioner did give her traveler's checks, traveler's checks were in safe deposit box, and from some traveler's checks copies were made. She never testified copies made of are the one's petitioner gave her.

From such evidence trial court ruled in favor of respondent. Thus causing judgment amount to be defective. Even though trail court stated proceedings was preponderance of evidence.

ARGUMENT 2

1. **Did Trial Court had right to credit $30,000.00 toward judgment when evidence presented by Apellee lacked proper authentication?<due process of evidence in court>**

Evidence presented at trial court was copy of alleged original. However, proof of original's authenticity was not met when evidence was presented at court, as specified in Federal Evidentiary Rule. When original was in question thus copy presented, as evidence needed to meet Federal Evidentiary Rule.

2. **'evidence' presented at bench trial in trial court, when does evidence carry its full power as 'evidence' to be used in purpose of reaching verdict?<lack the time 'when'>**

When evidence is presented at court, there must be very specific time frame when mere evidence becomes fully powered 'proper evidence to consider to reach a verdict.' And order for this to happen there must be due process, which authorizes, enables, and elevates, a mere evidence to fully powered 'proper evidence.'

Order for evidence to carry its full power as 'evidence to be used to consider a verdict', it must be when said evidence is used for specific purpose to reach verdict, which is during consideration of verdict, And not before or when they are presented to the court.

Just as when bill is introduced in Congress is mere bill, though there maybe several versions of such said bill, it is not the law. Until such time as bill is approved and ratified by Congress, bill is mere a bill and not a law. Bill becomes law by utilization of due process. In addition, it is in this due process which it elevates a bill into a law at very specific time frame.

Therefore, bill merely does not become a law just because it is a bill, and there is clear distinction between the bill and the law and how bill is raised to objective standard of law.

However, in court, regards to evidence, there is no such due process to differentiate between mere evidence, and evidence used to reach a verdict at very specific time frame. And when said evidence is used to reach verdict, then it must be scrutinized by due process to insure it meets objective standards which is laid out in Federal Evidentiary rule, order for Equal representation is to occur, only then mere evidence can be elevated to 'evidence used for reaching a verdict.'

Evidence presented did not meet such objective due process, when ruling was either under consideration or announced. Therefore, said evidence lacked specified time in which it was fully empowered as 'evidence to be used for reaching a verdict.'

3. **when said 'evidence' is used for purpose of reaching verdict after it was presented in court, does 'evidence' must meet due process in which it becomes qualifies as 'proper evidence' and when does this 'due process' occur at bench trial?<due process 'how'>**

When trial court is considering a verdict, and said evidence is being used for verdict, during such consideration, should said evidence go through due process to insure its viability as 'evidence to consider for verdict'? How should this 'due process' occur? <Due process of evidence to become fully powered evidence to reach verdict, and its time of effectiveness. >

Court is part of due process. However, within its due process, court lacks due process for

evidence. Order for due process to be effective in its entirety, all facets must meet objective standard of due process, including evidence. To insure equal representation exists for entire facets of due process.

Reason this is important is, not all evidence, i.e. documents and testimony, from all participating parties carry equal weight. Some is discarded and some are used to reach verdict. If so, there must be due process specifically for one's used for reaching a verdict.

Evidence used by court to reach verdict did not meet due process, since there was not any. Even though, court did recognized said evidence to be 'full powered evidence' and did use it to reach its verdict.

4. **When trial court used 'evidence' presented in court, in purpose of reaching verdict at bench trial, does trial court have duty in which proper due process was observed to insure authentication has been met for use of 'evidence to reach verdict'? <Who has onus? >**

When evidence is presented in court, and court is considering the said evidence, court merely accepted the claim of authenticity of said evidence, as fully powered evidence. Even though Federal Evidentiary Rule specifically states, if original is in question, then there must be proof of authenticity of said evidence.

Since it was court who was reaching the verdict at bench trial from evidence, insuring the proof of authenticity is properly met, must be with court. Although, all are innocent until proven guilty, meaning unless it was proved to be otherwise, it is accepted as face value; but they do must meet Federal Evidentiary Rule. Therefore, onus of whether rules are properly met is with court to insure justice is properly served.

Since court does not make clear distinction between practicing the law by court vs. offer all the possible available avenues, which already exists in law, or rules as matter of public records, which all participating parties must adhere to, to insure process is efficiently handled, and to expedite and resolution of said matter can be reached in shortest time possible, to glean truth.

Although, court consistently said, ignorance of the law is not an excuse, when two opposing parties are in proceeding, one may not be aware of avenues already exists where other does, which is matter of public. Thus, inequity exists. In other matters court tried to correct this disparity by various patchwork, i.e., Miranda, bill of rights, women's right to vote. However, if court ignores this disparity within its system, fully knowing legal consequences of such, then court is remiss of its duty and negligent on finding truth, and truth must come to be.

Court does not make clear distinction between due process in which truth can be obtained by

offering all known avenues, its hand is tied to offer such avenues to all participating parties. Since it can be viewed as practicing law by court.

Therefore, court must make clear distinction between practicing the law vs. offerings by court of all the known avenues, which is matter of public, in which truth can be obtained, which current court system solely lacks.

5. **Did the Trial Court err when it granted $30,000.00 to be credited toward judgment when there was no compelling evidence?<discretion>**

When evidence offered was insufficient, to the point of none existence, and defective, and court specifically stated its decision is based on preponderance of evidence, did trial court err when it granted $30,000.00 to be credited towards judgment? <Discretion and power and its discretional jurisdiction of court>

Under sworn Testimony, there was no proof offered by Appellee about said $30,000.00 was specifically to partially or fully to satisfy judgment. And yet ruling of court was to partially credit toward judgment.

6. **when trial court did granted credit of $30,000.00 toward judgment, did it violate appellant's right of due process?<due process: individual rights>**

Trial court did grant said $30,000.00 to be credited toward the judgment, when it lacked proper evidence in which it could have arrived at its ruling, and since there is lack of proper evidence, and evidence is defective, court could not have reached it ruling as it did. There fore, court did violate appellant's right of due process.

Conclusion

Trial court stated verdict must be reached from preponderance of evidence, and since it was that specific evidence, and its process of how court utilized said evidence to reach its verdict is in question matter need to be reviewed. So that current defects in judgment can be corrected.

Therefore, in light of above circumstance, petitioner requests court to grant Writ of Certiorari, and also requests to court to review entire matter.

I. An appendix containing, in the order indicated

Appendix A:

<Order from Court of Appeals>
denial of writ of cert.

Chong Su Yi a/k/a Kirk Yi *

Appellant *

v.

Young K. Lee *

Appellee

In the Court of Appeals Of Maryland

Petition Docket No. 257

Sept. Term 2001

(No. 1018, Sept. Term 2000,Court of Special Appeals)

ORDER

Upon consideration of the petition for a writ of certiorari to the Court of Special Appeals, in the above entitled case, it is

ORDERED, by the Court of Appeals of Maryland, that they petition be, and it is hereby, denied as there has been no showing that review by certiorari is desirable and in the public interest.

/s/ Robert M. Bell
Chief Judge

Date: September 14, 2001

Appendix B

Order of dismissal from court of special appeals.

Chong Su Yi a/k/a Kirk Yi *

		In the
Appellant	*	
		Court of Special
	*	**Appeals**
v.		
Young K. Lee et al.	*	**No. 1018**
	–	
Appellee		**Sept. Term 2000**

ORDER OF DISMISSAL
(failure to File Information Report)
<no name of chief judge's were provided. Omission of chief judge's name is not willful misconduct of petitioner or willful contempt towards the court and no date was shown below name of the judge>

in accordance with Maryland Rule 16-309, the Clerk of the Circuit Court for Montgomery County has advised that on June 01, 2000 appellant filed an appeal to his Court in the above captioned matter.

This matter, by its titling, appears to be a civil case subject to the requirements of Maryland Rule 8-205.

Pursuant to that Rule, a Prehearing Information Report was due to be filed with the Clerk of this Court on or before June 12 200; and the records of this Court indicate that, as of this date, the Report has not been filed.

WAHEREFORE, it is, by the Court of Special Appeals, this 19th day of July, 2000, upon its own initiative, pursuant to Maryland rule 8-206(e);

ORDERED, that the captioned appeal be, and it is hereby, dismissed for failure to file an information Report as required by Maryland Rule 8-205.

/s/ chief judge
Chief Judge

Order from court of appeals to show the cause <No judge's name shown. It is not negligent or willful failure on petitioner to provide judge's

name. And no date was shown below judge's name.>

Chong Su Yi a/k/a Kirk Yi	*	**In the**
Appellant	*	**Court of Special**
	*	**Appeals**
v.		
Young K. Lee et al.		**No. 1018**
Appellee		**Sept. Term 2000**

ORDER

It appears from the record for the captioned appeal that:

This is a confessed judgment action appealed from the Circuit Court for Montgomery County. On May 2, 2000, the circuit court (Beard, J.) denied the defendants' Motion to Mark Judgment as Satisfied and placed on the record the parties agreement as to defendants' Motion to Release Property from Levy. On June 1, 2000, appellant filed a Notice of Appeal. Thereafter, on August 22, 2000, appellant filed in the circuit court an Order of Satisfaction indicating that the

judgment entered against the defendants had been satisfied.

It is, therefore, this 12th day of February, 2001, by the Court of Special Appeals, on its own initiative,

ORDERED, that Appellant show cause on or before the 28th day of February, 2001, why the above captioned appeal should not be dismissed as moot in light of the Order Satisfaction filed on August 22, 2000.

/s/ chief judge
Chief Judge

Order of dismissal from court of special appeals
<no name of judge's were provided. It is not failure or willful misconduct of the petitioner. And no date was shown below the judge's name.>

Chong Su Yi a/k/a Kirk Yi	*	**In the**
Appellant	*	**Court of Special**
	*	**Appeals**
v.		
Young K. Lee et al.	*	**No. 1018**
Appellee		**Sept. Term 2000**

ORDER

By order dated February 12, 2001, this Court directed Appellant to show cause why the captioned appeal should not be dismissed as moot in light of the Order of Satisfaction filed on August 22, 2000. No response to the Order having been filed, it is this 12th day of March, 2001, by the Court of Special Appeals,

ORDERED that the appeal is hereby dismissed. MD Rule 3-602(a) (10).

/s/ chief judge
Chief Judge

Order of dismissal of motion to reconsider from court of special appeals
<no name of chief judge's were provided. It is not failure of petitioner or willful misconduct not to provide the name of chief judge. And no date was shown below the name of the judge.>

Appendix C:

Order of denial of Motion to reconsider.

Chong Su Yi a/k/a Kirk Yi * In the

Appellant	*	Court of Special Appeals
	*	
v.		
Young K. Lee et al	*	No. 1018
Appellee		Sept. Term 2000

ORDER

This Court having considered Appellant's Motion to Reconsider and Appellant's "amend Motion to Reconsider," it is this 21st day of June, 2001, by the Court of Special Appeals,

ORDERED that the Motion to Reconsider and "Amend Motion to Reconsider" are denied.

From Panel of the Court
Consisting of
D.S. Eyler, Krauser,
and
Thieme, JJ.

/s/ chief judge
Chief Judge

Appendix D

Circuit court Decision.
From circuit court for Montgomery County Maryland.
<However, there is no court's mandate. >

Case number:V144747

Seung Mo Kang
Plaintiff and
Judgment creditor

v.

Lee's U.S. deli Corp et al.
Defendant and
Judgment debtor.

5/2/00 hearing on Defendant's Young K. Lee, Cho Sun Lee, Bong Ki Lee, Jacklyn Lee and Hyang Soon Lee's Motion to mark Judgment as Satisfied (#50) (Beard, J) – Denied.

Orders $30,000.00 to be credited towards note. tape 5/2/00 –17-416.7 – 458.9 and 474.6 –695.7

5/2/00 Agreement placed on the record as to Defendant's Motion to Release Property from Levy at Tab (#55)

5/2/00 Plaintiff's Exhibit #1 admitted and filed Defendant's exhibit A admitted and filed in court jacket, exhibits #1 and #2 admitted and filed

5/2/00 Exhibited sheet filed.

i) any other relevant opinions, orders and so on. if reference is necessary to ascertain the grounds of the judgment of those in companion cases. All have caption showing eh name an of the court, title and number of the case, and date of entry

none.

ii) any order on rehearing, including caption, name of court, title and so on

none

iii) judgment sought to be review if date is different fro the date of opinion or order required in sub paragraph(i.)

none.

iv) Material required by subparagraphs 1(f) or 1(g)(i)

F: constitutional provisions, treaties, statues

G: statement of the case<of its relevant materials>

v) Any other material the petitioner believes essential to the petition

If material require by this subparagraph is too much, make separate volume with right covers.